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Mortgage Loan Trust, Series 2007-1, Mortgage Pass-
Through Certificates*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

HSBC BANK, USA, NATIONAL
ASSOCIATION, AS TRUSTEE FOR
MORTGAGEIT SECURITIES CORP.
MORTGAGE LOAN TRUST, SERIES
2007-1, MORTGAGE PASS-THROUGH
CERTIFICATES, a national banking
association;

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC, a
Nevada limited liability company; VIA
VALENCIA/VIA VENTURA
HOMEOWNERS ASSOCIATION, a Nevada
non-profit corporation; ABSOLUTE
COLLECTION SERVICES, LLC, a Nevada
limited liability company;

Defendants.

SFR INVESTMENTS POOL 1, LLC, a
Nevada limited liability company,

Counter-Claimant,

vs.

Case No.: 2:17-cv-01512-APG-VCF

**STIPULATION AND ORDER TO
STAY LITIGATION PENDING
CERTIFIED QUESTION BEFORE
NEVADA SUPREME COURT, CASE
NO. 72931**

1 HSBC BANK, USA, NATIONAL
2 ASSOCIATION, AS TRUSTEE FOR
3 MORTGAGEIT SECURITIES CORP.
4 MORTGAGE LOAN TRUST, SERIES 2007-
5 1, MORTGAGE PASS-THROUGH
6 CERTIFICATES, national banking
7 association, CITIMORTGAGE, INC.;
8 MAGELLAN A. AQUINO, an individual,

Counter-Defendant/Cross-Defendants.

9 It is hereby stipulated and agreed by and between Plaintiff/Counter-Defendant HSBC
10 Bank, USA, National Association, as Trustee for Mortgageit Securities Corp. Mortgage Loan
11 Trust, Series 2007-1, Mortgage Pass-Through Certificates (“HSBC Bank”),
12 Defendant/Counterclaimant/Cross-Claimant SFR Investment Pool 1, LLC (“SFR”), Defendant
13 Via Valencia/Via Ventura Homeowners Association (the “HOA,”), and Defendant Absolute
14 Collection Services (collectively, the “Parties”), by and through their respective counsel:

15 1. This lawsuit is one of hundreds where the parties dispute the effect of a non-
16 judicial foreclosure sale held by an HOA pursuant to NRS 116.3116 *et seq.* (the “Statute”) for an
17 owner’s failure to pay HOA assessments.

18 2. On August 12, 2016, the Ninth Circuit issued a decision in *Bourne Valley Court*
19 *Trust v. Wells Fargo Bank, N.A.*, 832 F.3d 1154 (9th Cir. 2016), holding that NRS 116.3116 *et*
20 *seq.* is facially unconstitutional under the due process clause of the Fourteenth Amendment to the
21 United States Constitution.

22 3. On March 1, 2017, the Nevada Supreme Court issued a decision in *Saticoy Bay*
23 *LLC Series 350 Durango 104 v. Wells Fargo Home Mortgage*, 388 P.3d 970 (Nev. 2017), holding
24 that NRS 116.3116 *et seq.* is not facially unconstitutional.

25 4. On May 3, 2017, this Court filed a certified question with the Nevada Supreme
26 Court in *SFR Investments Pool 1, LLC v. Bank of New York Mellon*, Case No. 72931, requesting
27 that the Nevada Supreme Court determine whether incorporation of NRS 107.090 into NRS
28 116.31168 requires homeowners’ associations to provide notices of default to lenders, even when
lenders do not affirmatively request notice (the “Certified Question”).

1 5. Staying this case pending a remittitur in the Certified Question will enable the
2 parties to present arguments and evidence to this Court with complete legal authority, thereby
3 promoting the most efficient use of the Court's and the parties' limited resources.

4 6. Because the Certified Question is fully briefed and submitted for decision without
5 oral argument before the Nevada Supreme Court, the stay is not indefinite.

6 7. Accordingly, the parties request that all proceedings in this lawsuit are stayed, and
7 all upcoming deadlines, hearings, and conferences be vacated.

8 8. The parties agree that SFR will maintain the property at issue in its current
9 condition and will abide by all obligations and responsibilities arising from SFR's alleged
10 ownership interest in the property, including but not limited to the payment of all applicable fees,
11 assessments, taxes, and other financial obligations.

12 9. The parties agree that upon written request and reasonable notice, SFR shall allow
13 HSBC Bank access to the property to inspect and ensure the property is being reasonably
14 maintained.

15 10. The parties agree that HSBC Bank will not pursue foreclosure against the property
16 at issue during the stay.

17 11. The parties agree that SFR will not sell, transfer, or convey the property while this
18 case is stayed.

19 12. The parties further agree that their claims and defenses will be tolled, if necessary,
20 for the duration of the stay, beginning on the date this stipulation is filed until the Court issues an
21 order lifting the stay.

22 13. This stay will expire after the Nevada Supreme Court issues a remittitur in the
23 Certified Question.

24 14. Within fifteen (15) days after the remittitur is issued, the parties shall file a notice
25 informing the Court that the stay has expired.

26 15. The parties agree that upon dissolution of this stay, the parties will meet and confer
27 and submit a stipulation and order setting forth an updated discovery schedule.

28 ///

16. SFR and HSBC Bank agree that HSBC Bank shall respond to SFR's written discovery requests, served on or about April 6, 2018, within forty-five (45) days after an order lifting the stay is entered.

17. SFR agrees to vacate HSBC Bank's deposition, currently set for April 25, 2018. After an order lifting the stay is entered, the parties will provide HSBC Bank with at least sixty (60) days notice of any deposition of HSBC Bank's person most knowledgeable, or any other employee, representative, or agent of HSBC Bank identified for any deposition in this matter.

IT IS SO STIPULATED.

DATED this 17th day of April, 2018

By: /s/ Holly E. Cheong

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Loan Trust, Series 2007-1, Mortgage Pass-
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DATED this 17th day of April, 2018

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SIGNATURES CONTINUED ON NEXT PAGE

DATED this 17th day of April, 2018

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Association*


ORDER

The Court having considered the attached stipulation of the parties, IT IS ORDERED
THAT:

1. All proceedings in this lawsuit are stayed, and all upcoming deadlines, hearings, and conferences be vacated.
2. SFR will maintain the property at issue in its current condition and will abide by all obligations and responsibilities arising from SFR's alleged ownership interest in the property, including but not limited to the payment of all applicable fees, assessments, taxes, and other financial obligations.
3. Upon written request and reasonable notice, SFR shall allow HSBC Bank access to the property to inspect and ensure the property is being reasonably maintained.
4. HSBC Bank will not pursue foreclosure against the property at issue during the stay.
5. SFR will not sell, transfer, or convey the property while this case is stayed.
6. The parties' claims and defenses will be tolled, if necessary, for the duration of the stay, beginning on the date this stipulation is filed until the Court issues an order lifting the stay.
7. This stay will expire after the Nevada Supreme Court issues a remittitur in the Certified Question, *SFR Investments Pool 1, LLC v. Bank of New York Mellon*, Case No. 72931.

- 1 8. Within fifteen (15) days after the remittitur is issued, the parties shall file a notice
- 2 informing the Court that the stay has expired.
- 3 9. Upon dissolution of this stay, the parties will meet and confer and submit a stipulation and
- 4 order setting forth an updated discovery schedule.
- 5

6 IT IS SO ORDERED:

7 

8 _____
9 U.S. DISTRICT COURT JUDGE

10 Dated: April 19, 2018.